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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/749,963	12/31/2003	David C. Hastings	5024-00009	9670
<div>7590 03/04/2008</div> <div>Joseph D. Kuborn ANDRUS, SCALES, STARKE & SAWALL Suite 1100 100 East Wisconsin Avenue Milwaukee, WI 53202</div> <div>EXAMINER HELLER, TAMMIE K</div> <div>ART UNIT 3766 PAPER NUMBER</div> <div>MAIL DATE 03/04/2008 DELIVERY MODE PAPER</div>				

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/749,963

Applicant(s)

HASTINGS, DAVID C.

Examiner

TAMMIE HELLER

Art Unit

3766

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 December 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SE/US)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. The amendment filed on December 13, 2007 has been received and considered. By this amendment, claim 1 has been amended and claims 1-19 are now pending in the application.

Claim Objections

2. In view of Applicant's amendment to claim 1, the Examiner is withdrawing the objection which was made against claim 1 in the previous Office Action.

Response to Arguments

3. Applicant's arguments with respect to claim 1 have been considered but are moot in view of the new ground(s) of rejection, necessitated by amendment.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 2, and 4-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dempsey in view of Flaherty et al. (U.S. 2002/0126036).

6. Regarding claim 1, Dempsey discloses a system for monitoring a physiological condition of a patient that includes a portable electronic device 100 including a processing circuit 400 and a number of identification devices, such as keyboard 426 and touchscreen 300E that may input data representative of an identity of a subject of interest (see Figures 3 and 4). Further, Dempsey discloses at col. 9, ln. 31-42, that a

number of devices may be connected to the processor in order to input data. Dempsey further discloses that the processing circuit includes a transceiver which may communicate via a short-range link with a second device or via a local-area network (see col. 9, ln. 23-27). However, Dempsey fails to disclose a cellular transceiver configured such that the device can send cellular voice calls.

7. Flaherty discloses a system for providing medical treatment to a patient that includes a portable electronic monitoring device 100 that includes a cellular transceiver configured such that the device can send cellular voice calls (see paragraphs 38 and 42). Flaherty further discloses that the cellular transceiver is included in the remote device to minimize the number of devices that must be carried by a person at a given time (see paragraph 96). Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to include a cellular transceiver, as taught by Flaherty, in the processor of Dempsey in order to minimize the number of devices that a user must carry at a given time.

8. Regarding claim 2, Dempsey discloses that the identification device may be a barcode scanner (see col. 9, ln. 41-43).

9. Regarding claim 4, it can be seen from Figure 3 of Dempsey that the identification device is configured to input data representative of an identity of the user.

10. Regarding claim 5, Dempsey discloses that the functions of the portable electronic device are adjusted based on the identity of the user (see Abstract).

11. Regarding claim 6, Dempsey discloses that the display is customized based on the identity of the user (see Abstract).

12. Regarding claim 7, Dempsey discloses that the notification messages received by the portable electronic device are determined based on the identity of the user input (see claim 1).

13. Regarding claim 8, Dempsey discloses that the information received from the identification device may be used to adjust a number of features of the electronic device (see Abstract and claim 1).

14. Regarding claim 9, Dempsey discloses that the device includes an audio signal input device 310, an audio signal output device 312 and a wireless transceiver 112 (see Figure 3).

15. Regarding claim 10, it can be seen from Figures 6-9 of Dempsey that the processing circuit may implement organizer programs.

16. Regarding claim 11, Dempsey discloses communicating via a cellular data transfer protocol (see col. 3, ln. 58-67).

17. Regarding claim 12, it can be seen from Figures 6-9 of Dempsey that the processing circuit may implement organizer programs.

18. Regarding claims 13 and 14, it can be seen from Figure 7 that the organizer program includes a task list function.

19. Regarding claims 15 and 16, Dempsey discloses that the notification message includes physiologic data, specifically an electrocardiogram waveform, acquired from the patient (see col. 8, ln. 4).

20. Regarding claim 17, it can be seen from Figures 1-3 that the invention of Dempsey includes a rugged housing.

21. Regarding claim 18, Dempsey discloses that the housing may be for example, six inches tall, four inches wide, and one-half inch deep (see col. 7, ln. 22-23). Therefore, the housing of Dempsey is disclosed to have a volume of no more than 35 cubic inches.

22. Regarding claim 19, as the device of Dempsey is designed and configured to be utilized within the setting of a hospital, the Examiner takes the position that it is inherent that the housing be configured to be free of bacterial growth in order to maintain the sanitary conditions necessary within a hospital setting.

23. Claims 1-14, 17, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bui in view of Flaherty.

24. Regarding claim 1, Bui discloses a medical treatment verification method and system that includes a processing circuit 202 having a transceiver 208 configured to receive notification messages from a medical monitoring system and an identification device 206 coupled to the processing circuit configured to receive data from a plurality of information sources (see Figure 2 and paragraph 31). Further, Bui discloses that the device 200 may be a PDA (see paragraph 32).

25. Flaherty discloses a system for providing medical treatment to a patient that includes a portable electronic monitoring device 100 that includes a cellular transceiver configured such that the device can send cellular voice calls (see paragraphs 38 and 42). Flaherty further discloses that the cellular transceiver is included in the remote device to minimize the number of devices that must be carried by a person at a given time (see paragraph 96). Therefore, it would have been obvious to one having ordinary

skill in the art at the time of the invention to include a cellular transceiver, as taught by Flaherty, in the processor of Bui in order to minimize the number of devices that a user must carry at a given time.

26. Regarding claims 2 and 3, Bui discloses that the identification may be a bar code scanner or a radio frequency identification circuit (see paragraphs 22 and 31).

27. Regarding claims 4 and 5, Bui discloses that the identification device is used to identify the user and adjust the portable electronic device based on this identity (see paragraph 22).

28. Regarding claims 6, 7, and 8, Bui discloses that the display and notification messages are customized based on the identity of the user (see paragraph 59).

29. Regarding claim 9, Bui discloses that the I/O device 206 depicted in Figure 2 may be any of a number of devices, including a telephonic interface (see paragraph 31). The Examiner takes the position that a telephonic interface would inherently include an input audio device connected to an output audio device via a transceiver.

30. Regarding claims 10 and 12, Bui discloses implementing organizer programs (see paragraph 104 and Figure 3).

31. Regarding claim 11, Bui discloses that the transceiver may use a number of transfer protocols, including cellular data transfer (see paragraph 18).

32. Regarding claims 13 and 14, it can be seen from Figures 4-7 of Bui that a list of tasks must be traversed in order for the protocol to be completed.

33. Regarding claim 17, it can be seen from Figure 1 that the invention of Bui includes a rugged housing.

34. Regarding claim 19, as the device of Bui is designed and configured to be utilized within the setting of a hospital, the Examiner takes the position that it is inherent that the housing be configured to be free of bacterial growth in order to maintain the sanitary conditions necessary within a hospital setting.

Conclusion

35. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **TAMMIE HELLER** whose telephone number is (571)272-1986. The examiner can normally be reached on Monday through Friday from 7am until 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl H. Layno can be reached on 571-272-4949. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Tammie Heller/
Examiner, Art Unit 3766

/Carl H. Layno/
Supervisory Patent Examiner, Art Unit 3766